



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RQ-2

January 24, 2007

Drew Smith, Treasurer
Democratic Party of Arkansas
1300 West Capitol Avenue
Little Rock, AR 72201

Response Due Date:
February 26, 2007

Identification Number: C00024372

Reference: 30-Day Post-General Report (10/19/06-11/27/06)

Dear Mr. Smith:

This letter is prompted by the Commission's preliminary review of the report(s) referenced above. This notice requests information essential to full public disclosure of your federal election campaign finances. **An adequate response must be received at the Commission by the response date noted above.** An itemization of the information needed follows:

-The beginning cash balance of this report should equal the ending balance of your Amended 12-Day Pre-General Report (10/1/06-10/18/06), received 1/2/07. Please clarify this discrepancy and amend any subsequent report(s) that may be affected by this correction.

-The totals listed on Lines 6(c), 11(a)(i), 11(a)(iii), 11(d), 12, 15, 19, 20, 21(a)(i), 21(a)(ii), 21(c), 29, 32, Column B of the Summary and Detailed Summary Page(s) appear to be incorrect. Please be advised that you should add the "Calendar Year-to-Date" total from your previous report to the current "Total This Period" figure from Column A to derive the correct Column B totals. Please amend your report and any subsequent reports that may be affected by this correction.

-Commission Regulations require that a committee disclose the identification of all individuals who contribute in excess of \$200 in a calendar year. (11 CFR §104.3(a)(4)(i)) Identification for an individual is defined as the full name, mailing address, occupation and name of employer. (11 CFR §100.12) Your report discloses contributions from individuals for which the identification is not complete.

You must provide the missing information, or if you are unable to do so, you must demonstrate that "best efforts" have been used to obtain the information. To establish "best efforts," you must provide the Commission with a detailed description of your procedures for requesting the information. Establishing "best efforts" is a three-fold process.

First, your original solicitation must include a clear and conspicuous request for the contributor information and must inform the contributor of the requirements of federal law for the reporting of such information. (11 CFR §104.7(b)(1))

Second, if the information is not provided, you must make one follow-up, stand alone effort to obtain this information, regardless of whether the contribution(s) was solicited or not. This effort must occur no later than 30 days after receipt of the contribution and may be in the form of a written request or an oral request documented in writing. (11 CFR § 104.7(b)(2))
The request must:

- clearly ask for the missing information, without soliciting a contribution;
- inform the contributor of the requirements of federal law for the reporting of such information, and
- if the request is written, include a pre-addressed post card or return envelope.

Third, if you receive contributor information after the contribution(s) has been reported, you shall either a) file with your next regularly scheduled report, an amended memo Schedule A listing all the contributions for which additional information was received; or b) file on or before your next regularly scheduled reporting date, amendments to the report(s) originally disclosing the contribution(s). (11 CFR §104.7(b)(4))

Please provide the missing information or a detailed description of your procedures for requesting the information. For more information on demonstrating "best efforts," please refer to the Campaign Guide.

-Schedule A of your report discloses one or more contributions totaling \$8,655.23 from MBC Holdings, which appears to be a corporation(s). 2 U.S.C. §441b(a) prohibits the receipt of contributions from corporations unless made from a separate segregated fund established by the corporation.

If any apparently prohibited contribution in question was incompletely or incorrectly disclosed, you should amend your original report with clarifying information.

If you have received a prohibited contribution(s), you may have to make a refund. If within 30 days of receipt you (1) transferred the prohibited amount to an account not used to influence federal elections, and (2) provided written notice to the person making the contribution of the option of receiving a refund, you may retain the contribution in an account not used to influence federal elections. Any request from a donor for a refund must be honored.

If the foregoing conditions for transfers to a non-federal account were not met within 30 days of receipt, the prohibited amount must be refunded. See 11 CFR §103.3(b)(1).

Please inform the Commission of your corrective action immediately in writing and provide a photocopy of your check for any transfer-out or refund. In addition, any transfers-out or refunds should be disclosed on Schedule B supporting Line 22 or 28 of the report covering the period during which the transaction was made.

Although the Commission may take further legal action concerning the acceptance of a prohibited contribution, prompt action by your committee to transfer-out or refund the amount will be taken into consideration.

-Schedule A of your 30-Day Post-General Report discloses transfers totaling \$8,044.14 from the "AR Party Victory Fund (DNC)," which is a joint fundraising committee affiliated with your committee. The Commission notes the memo text attached to the report that states, "The memo entries for these contributions were included in the committee's July and October Monthly report." The Commission also notes the transfer totaling \$6,377.53 on your Amended September Monthly Report (8/1/06-8/31/06), received 11/27/06, with memo text stating, "The memo entries for these contributions were included in the committee's July Monthly report" as well as the transfer of \$16,667.00 on the Amended 12-Day Pre-General Report (10/1/06-10/18/06), received 1/2/07, with memo text stating, "The memo entries for these contributions were included in the committee's October Monthly report." The sum of the entries itemized on the memo Schedule A for the Amended July Monthly Report (6/1/06-6/30/06), received 10/15/06, and the Amended October Monthly Report (9/1/06-9/30/06), received 12/15/06, however, total only \$15,992.88.

Please be advised that a memo Schedule A must be provided to itemize your committee's share of the gross contributions received through the joint fundraiser. The memo schedule should itemize each individual who has contributed an aggregate in excess of \$200 during the calendar year, and

provide the amount of unitemized contributions received. In addition, the memo schedule should itemize your committee's share of all contributions from political committees, regardless of amount. 11 CFR §102.17(c)(8)(i)(B) Please clarify this discrepancy.

-Schedule A supporting Line 17 of your report discloses one or more receipts totaling \$151,000.00 from Beth G. Coulson, Kenneth Bailey Jr., Alfred Berekly, Frank T. Leighton, William Melton, Jesse Rogers and Geroge Tidmarsh. Please amend your report to clarify the nature of these receipts. Please be advised, if these receipts are contributions from individuals they should be properly disclosed on Schedule A, supporting Line 11(a)(i).

-The Commission notes the transfers on Schedule B to "Democratic Party - Non Federal Account" for the apparent misdeposit of contributions originally intended for the non-federal account. Please provide the date of the original deposit into the federal account and amend the appropriate report to disclose the receipt of these funds on Schedule A supporting the appropriate line of the Detailed Summary Page.

Although the Commission may take further legal action regarding the misdeposited funds, your prompt action in refunding or transferring out this amount will be taken into consideration.

-Schedule B supporting Line 29 discloses \$123,525.00 in transfers to what appears to be a non-federal account of your committee. Please provide further clarification regarding this transfer(s) to your non-federal account.

You are advised that 11 CFR §102.5 prohibits a non-federal account from financing activity in connection with federal elections. If any of these disbursements were made to influence the election or defeat of specific federal candidates, the disbursements should be allocated accordingly and disclosed as either in-kind contributions on Schedule B supporting Line 23, independent expenditures on Schedule E supporting Line 24, or as coordinated expenditures on Schedule F supporting Line 25. 11 CFR §§104.3(b)(3) and 106.1 In addition, if your non-federal account has paid any expenditures which should have been allocated, you are advised to correct any non-compliance with 11 CFR §§106.6 and 106.7 and establish procedures to insure future compliance with allocation regulations.

-Schedule A supporting Lines 11(a)(i) and 12 discloses a transfer(s)-in from the "Democratic National Committee." Schedule(s) B and H4 supporting Line(s) 30(b) and 21(a) reflects payments for "rebar for signs," "Shirt", "Shirts" and "Sign Supplies". Please be advised that a state or local party

committee may pay for campaign materials (such as bumper stickers, pins and yard signs) that are distributed by volunteers in connection with activity on behalf of the party's nominees in a general election and voter drive activity on behalf of the party's Presidential and Vice Presidential nominees. Payments for this type of activity are exempt from the definition of a contribution or expenditure if certain conditions are met. The conditions are that no public advertising may be used, including distribution by direct mail (mailings by a commercial vendor or from commercial lists); all funds used for the activity must be permitted under the Act; none of the funds used may have been designated for a particular candidate; and finally, payments for the activity may not be made from transfers-in from the national committee to specifically fund the activity. For further guidance, please refer to 11 CFR §§100.87 and 100.147 and to the Campaign Guide for Party Committees.

Please clarify the nature of the transfer(s)-in and subsequent payments for the aforementioned disbursement(s). If the activity disclosed on your report does not meet the definition of "exempt" activity as described above, any portion of the expenditures made on behalf of specifically identified candidates must be disclosed on Schedule B, E or F supporting Line 23 or 30(b), 24 or 25 of the Detailed Summary Page as appropriate.

-On Schedule H4, your allocated activity or event year-to-date total calculations for the Administrative category are incorrect. Allocated activity or event year-to-date totals for administrative, voter drive, exempt activity costs and expenses for public communications made by PACs referencing only political parties are derived by aggregating all disbursements during the calendar year for each separate category. Allocated activity or event year-to-date totals for fundraising and direct candidate support activities are derived by aggregating all disbursements during the calendar year within a specific event. These should be calculated by adding the latest disbursement for a category or event to the previous event year-to-date total for that category or event. This running event year-to-date total should be disclosed after each disbursement is listed. Please amend your report by providing the correct event year-to-date totals.

-On Schedule(s) H4 supporting Line(s) 21(a) of the Detailed Summary Page, you have not included the full name and/or mailing address for the payment made to Memphis Airport parking. Please amend your report accordingly.

-Please clarify all expenditures made for "tailgate party" and "UAPB Tailgate" on Schedule H4. If a portion or all of these expenditures were

made on behalf of specifically identified federal candidates, this amount should be disclosed on Schedules B, E, or F supporting Lines 23, 24, or 25 and include the amount, name, address and office sought by each candidate. 11 CFR §§104.3(b) and 106.1

Alternatively, if the payment(s) on Schedule H4 is associated with fundraising activity conducted for your committee's federal and non-federal accounts, it must be allocated according to the funds received method and the ratio reflected on Schedule H2. Further, it must be categorized as a fundraising activity on Schedule H4. Please provide clarifying information regarding the nature of this transaction(s) and amend your report(s) as appropriate.

-Schedule H4 of your report discloses a payment to "Bylites, Inc. Production Services," which is categorized as an administrative expense; however, the purpose of disbursement disclosed is "set up stage - tape - lighting etc." Please be advised that payments made for your committee's fundraising activities must be allocated according to the funds received method and the ratio reflected on Schedule H2. Please amend your report to clarify the appropriate category for this activity or provide clarifying information regarding this apparent discrepancy.

-Itemized disbursements must include a brief statement or description of why the disbursements were made. Please amend Schedule(s) H4 of your report to clarify the following description(s): "contract labor - non employee." For further guidance regarding acceptable purposes of disbursements, please refer to 11 CFR §104.3(b)(3).

-Schedule H4 of your report discloses reimbursements to individuals for "snacks and sodas for tailgate," "sodas and snacks for election day," "snacks for dinners" and "Sound Truck Rental." Please be advised that when itemizing reimbursements to individuals for goods or services, payment to the original vendors must be itemized as memo entries regardless of amount. Each memo entry must include the name and address of the original vendor, as well as the date, amount and purpose of the original purchase must be provided. Please amend your report to include the missing information and clearly identify on the Schedule H4, which reimbursement each memo entry relates to. 11 CFR §§104.10 and 104.17, and Advisory Opinions 1992-1 and 1996-20, footnote 3

-Schedule H4 of your report discloses voided or returned checks for expenditures made during this or previous reporting periods. Please clarify if and when these checks were reissued. If they were not reissued, please clarify the steps your committee has taken to account for the federal portion

of these voided or returned checks in order to avoid the acceptance of a prohibited in-kind contribution.

-Schedule H4 supporting Line 21(a) of your report discloses a payment(s) for "insurance," "payroll taxes" and "salary." Please be advised that pursuant to 11 CFR §300.33(c)(2), salaries and wages for employees who spend more than 25% of their compensated time in a given month on Federal election activity (FEA) or activities in connection with a Federal election must not be allocated between or among federal and non-federal accounts. Rather, only federal funds may be used. Further, the Commission concluded in Advisory Opinion 2003-11 that amounts spent for employee-specific "fringe benefits," consisting of health insurance, disability insurance, life insurance, retirement benefits and payroll taxes, fall into the category of compensated time.

Please clarify whether this activity is for employees who spent 25% or less of their time during the month(s) referenced above on FEA or activities in connection with a Federal election. If this is not the case, any reimbursement from your committee's non-federal account for this payment is not permissible and must be returned. Although the Commission may take further legal action regarding any improper allocation activity, your prompt action will be taken into consideration.

-Schedule H4 of your report discloses \$10,394.93 in payments for "polling research," "issues research," "consulting - research" and "Consulting - polling" to individuals. Please clarify whether these individuals are employees of your committee. If they are employees, please clarify whether this activity is for employees who spent 25% or less of their time during the month(s) referenced above on Federal election activity (FEA) or activities in connection with a Federal election. You are advised that pursuant to 11 CFR §300.33(c)(2), salaries and wages for employees who spend more than 25% of their compensated time in a given month on FEA or activities in connection with a Federal election must not be allocated between or among federal, non-federal and Levin accounts. Rather, only federal funds may be used.

Any reimbursement from your committee's non-federal or Levin account for salary and wage payments for employees who spent more than 25% of their compensated time in a given month on FEA is not permissible and must be returned. Please provide clarification regarding these payments.

-Schedule H4 supporting Line 21(a) of the Detailed Summary Page discloses disbursements for "polling for non federal candidates" and "radio ads for non federal candidates." It appears that your non-federal account

has transferred-in money to your federal account to help pay for these activities. By definition, a shared activity is one which benefits both federal and non-federal candidates or committees.

Please clarify the nature of these activities, specifically whether federal candidates or committees were included. If federal candidates or committees were not included in the activities, the Commission recommends that you immediately transfer the funds received by your federal account for these activities back to the non-federal account. Although the Commission may take further legal action concerning this prohibited activity, your prompt action will be taken into consideration.

-Schedule H4 of your report discloses a payment(s) for "automated calls," "consulting-polling," "generic ad," "handout pieces," "phone bank," "polling research," "printing flyers," "radio ad," "radio ads," "research calls" and "Victory 2006 Banner" Please be advised that 11 CFR §100.24(b) defines as Federal Election Activity, Voter identification, Generic Campaign and Get-out-the vote activities conducted in connection with an election in which one or more candidates for Federal office appear on the ballot. Furthermore, the costs for these types of Federal Election Activity must either be paid with federal funds or can be allocated between federal and Levin funds as long as the activity conducted does not refer to a clearly identified candidate for Federal office. It appears that you have allocated these costs between federal and non-federal funds. Any reimbursement from your committee's non-federal account for Federal Election Activity costs is not permissible and must be returned. 11 CFR §§300.32 and 300.33

Please inform the Commission of your corrective action immediately or provide clarifying information regarding this activity. Although the Commission may take further legal action regarding this apparent prohibited activity, your prompt action will be taken into consideration.

-Schedule H5 of your report discloses transfers-in of Levin funds to your federal account for Voter ID activity in the amounts of \$56,428.10, \$25,000.00, and \$90,142.50. However, Schedule L-B supporting Line 4(b) of the Schedule L Aggregation Page for the "DPA Levin Fund" account discloses only a \$90,142.50 transfer(s)-out of Levin funds for this activity. Furthermore, Schedule L-B, supporting Line 4(c) discloses \$56,428.10 and \$25,000.00 transfers-out of Levin funds, while Schedule H5 shows no transfers-in for GOTV activity. Please amend your report to clarify this apparent discrepancy.

-Schedule H5 supporting Line 18(b) of your report discloses a negative entry for the apparent refund(s) of a transfer-in of Levin funds received by your committee. Please be advised that if your committee wrote a refund check from your account, this disbursement should be disclosed on Schedule B supporting Line 29 of the Detailed Summary Page and linked to the original transfer-in. Further, if the original transfer-in was never received by your committee you should amend the report where the original transfer-in is shown to delete that entry. Please amend your report(s) to properly disclose this activity or provide clarifying information.

-Schedule H6 of your report discloses \$212.50 in payments for "GOTV Consultant" to individuals. Please clarify whether these individuals are employees of your committee. You are advised that pursuant to 11 CFR §300.33(c)(2), salaries and wages for employees who spend more than 25% of their compensated time in a given month on Federal election activity or activities in connection with a Federal election must not be allocated between or among federal, non-federal and Levin accounts. Rather, only federal funds may be used. Any reimbursement from your committee's non-federal or Levin account for salary and wage payments is not permissible and must be returned. Please provide clarification regarding these payments.

-Schedule H6 supporting Line 30(a) of your report discloses a payment(s) for "GOTV Radio" and "Radio Remote GOTV". Please be advised that pursuant to 11 CFR §300.33(c)(1), expenditures for public communications (as defined by 11 CFR §100.26) that refer to a clearly identified candidate for Federal office and that promote, support, attack or oppose any such candidate for Federal office must not be allocated between or among federal, non-federal and Levin accounts. Only federal funds may be used.

Further, expenditures and disbursements for public communications that refer to a clearly identified candidate for Federal office and that promote, support, attack or oppose any candidate for Federal office, meet the definition of Federal Election Activity under 11 CFR §100.24 and should be disclosed on Schedule B for Line 30(b) along with the identity of the candidate(s). However, public communications that meet the definition of Federal Election Activity and that also contain express advocacy as defined under 11 CFR §100.22, but do not meet the conditions of exempt activity, would constitute an in-kind contribution, an independent expenditure or a coordinated party expenditure and should be properly disclosed on a Schedule B, E or F supporting Lines 23, 24 or 25, as appropriate, rather than on Schedule B for Line 30(b). Please clarify if this activity meets the definition of Federal Election Activity or if it contains express advocacy and amend your report to properly disclose this activity, if necessary.

If this activity was categorized incorrectly, the Commission recommends that you immediately transfer the funds received by your federal account for this activity back to the non-federal or Levin account. Although the Commission may take further legal action concerning this prohibited activity, your prompt action will be taken into consideration.

-Please amend your report by providing the address and purpose for each disbursement itemized on Schedule(s) H6 and L-B supporting Line(s) 30(a) and 5.

-Schedule H6 supporting Line 30(a) of your report discloses a payment(s) for "Generic GOTV," "GOTV Canvassing," "GOTV Radio" and "Radio Remote GOTV," which is categorized as Voter ID and Generic Campaign activity; however, it appears that this activity should be categorized as GOTV. Please be advised that 11 CFR §100.24(a)(3) defines get-out-the-vote activity as contacting registered voters by telephone, in person, or by other individualized means, to assist them in engaging in the act of voting. Please amend your report to clarify the appropriate category for this activity or provide clarifying information regarding this apparent discrepancy.

-On Schedule(s) H6 supporting Line(s) 30(a) of the Detailed Summary Page, you have not included the full name and/or mailing address for the payment made to "Debit Card." Please amend your report accordingly.

-Schedule A supporting Line(s) 11(a)(i) and 12 discloses a transfer(s)-in from the "Democratic National Committee." Schedule H6 supporting Line 30(a) reflects payments for Federal Election Activity. Please be advised that under 11 CFR §300.34, a state, district or local party committee must not use any Federal funds transferred to it from a national party committee or any other State, district or local party committee, as the Federal component of an expenditure or disbursement for Federal Election Activity. Furthermore, your committee must itself raise the Federal component of expenditure or disbursement allocated between Federal and Levin funds.

Please clarify whether the transfer(s)-in was used for the subsequent payments for Federal Election Activity. In addition, please clarify the procedures you are currently using to ensure that Federal funds transferred to your committee from national, state, district and local party committees are not being used for Federal Election Activity.

-Your report disclosed a category of financial activity that has been reflected on the wrong line of the Detailed Summary Page. Transfers from state and national party committees should be properly disclosed on a

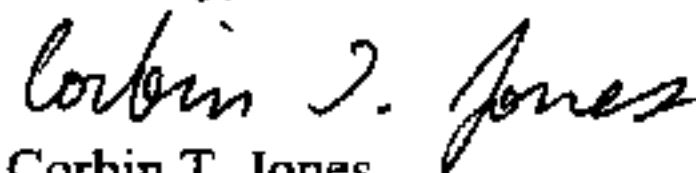
separate Schedule A, supporting Line 12 of the Detailed Summary Page. Please refer to the instructions for each line when determining the proper categorization(s) for your next filing.

-Schedule L-B, supporting Line 5 of the Schedule L Aggregation Page for the "DPA Levin Fund" account discloses a \$21,267.45 disbursement of Levin Funds to "Democratic Party CC Federal." However you do not disclose receiving these Levin funds into your federal account. Furthermore, please be advised that unless your Levin account is reimbursing your federal account for allocable Federal Election Activity, the transfer-in of funds from a Levin account is prohibited by 11 CFR §102.5(a)(1)(i) and §300.30(b)(3). Please clarify this discrepancy.

Please note, you will not receive an additional notice from the Commission on this matter. Adequate responses received on or before this date will be taken into consideration in determining whether audit action will be initiated. **Requests for extensions of time in which to respond will not be considered.** Failure to provide an adequate response by this date may result in an audit of the committee. Failure to comply with the provisions of the Act may also result in an enforcement action against the committee. Any response submitted by your committee will be placed on the public record and will be considered by the Commission prior to taking enforcement action.

Electronic filers must file amendments (to include statements, designations and reports) in an electronic format and must submit an amended report in its entirety, rather than just those portions of the report that are being amended. If you should have any questions regarding this matter or wish to verify the adequacy of your response, please contact me on our toll-free number (800) 424-9530 (at the prompt press 5 to reach the Reports Analysis Division) or my local number (202) 694-1177.

Sincerely,



Corbin T. Jones
Campaign Finance Analyst
Reports Analysis Division

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